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EXAMINER

GOODEN JR, BARRY J

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

10/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,443

Applicant(s)

WATTERS, JEFFREY DUNCAN

Examiner

BARRY J. GOODEN JR

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-21 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-21 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to the amendment May 19, 2008. Currently, claims 11-13, 15-21 and 34-38 are pending. Claim 11 is amended. Claims 1-10, 14 and 22-33 are cancelled.

Claim Objections

1. Claim 11 is objected to because of the following informalities:

Claim 11 recites "allow improved". The term "improved" should be removed from the claims, as the claims should not be directed to the purported merits of the invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Nissan Serena in view of Anderson et al., US Patent 4,847,972.

In regards to claims 11-18, the Nissan Serena is disclosed as a vehicle comprising an independent rear suspension (multi-link), mountings thereof, and a rear hatch door capable of accommodating a wheelchair in a width direction.

In regards to Anderson et al., an apparatus is disclosed wherein a portion of the floorpan of a vehicle is lowered to facilitate ingress and egress of a handicapped person wherein the floorpan extends forwardly from a rearward entrance of the vehicle to a driver position;

wherein the lowered portion of the floorpan is sufficiently wide to accommodate a handicapped person; and,

wherein the floorpan is substantially flat (Reference is made to Figures 5-15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Nissan Serena in view of the teachings of Anderson et al. to include a lowered floorpan extending from a rearward entrance to a driver portion of the vehicle so as to facilitate ingress and egress of a handicapped occupant in a vehicle other than that disclosed in Anderson et al., since it is old and well known to provide means of occupant ingress and egress for handicapped persons in various vehicles.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the location at which a handicapped person may enter the vehicle, thus modifying the layout of the floorpan and location of the

lowered portions, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Also, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a floorpan of various widths, including 850mm (less than a third of the Serena's width), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Applicant has not refuted that it is old and well known to provide means of ingress and egress for handicapped persons in various vehicles as such it is taken to be admitted prior art.

Applicant has not refuted that rearranging parts of an invention involves only routine skill in the art as such it is taken to be admitted prior art.

Applicant has not refuted that discovering the optimum or workable ranges involves only routine skill in the art as such it is taken to be admitted prior art.

4. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Nissan Serena in view of Anderson et al., US Patent 4,847,972, and further in view of Hall, US Patent 4,688,843.

In regards to Hall, a wheelchair restraint system including a restraining belt (37) being anchored to the vehicle floor (12) by means of a belt mounting frame (37A) (Reference is made to Figures 1-5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the floorpan of the Nissan Serena in view of the teachings of Anderson et al., as disclosed above, in view of the teachings of Hall to include a wheelchair restraint system so as to enable a handicapped person to operate the vehicle without worry of moving within the vehicle.

5. Claims 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Nissan Serena in view of Anderson et al., US Patent 4,847,972, and further in view of Alatalo, US Patent 5,641,176.

In regards to claims 34-38, the combination as disclosed above the claimed elements excluding a rear trailing arm suspension.

Alatalo discloses all of the claimed elements including a trailing arm (10), a front mount (40), a spring mount (34), a wheel mount (18), and a shock mount (22). Alatalo discloses bushings rather than bearings; however it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a bearing since it is a simple substitution of one known element for another to obtain predictable results.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the suspension of the Nissan Serena in view of Anderson et al. in view of the teachings of Alatalo to include a rear trailing arm suspension since it is a simple substitution of one known element for another to obtain predictable results.

Response to Arguments

6. Applicant's arguments filed May 19, 2008 have been fully considered but they are not persuasive. Examiner maintains the previous rejection is proper.

Applicant has elected to prosecute product claims as such, the additional components (for example "original rear suspension") do not serve to define over the prior art, as they are not germane to the patentability of the product itself.

Examiner maintains the previous rejection is proper. Further, the examiner maintains that the "original rear suspension" does not serve to define over the prior art as the final product only contains elements drawn to the "substitute rear suspension", all of these elements are disclosed by the Nissan Serena as detailed above. Furthermore, the examiner provided an NPL document that clearly documents that the information on the Nissan Serena was publicly available at least as of October 1999.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARRY J. GOODEN JR whose telephone number is (571)272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/

Barry J Gooden Jr.

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Supervisory Patent Examiner, Art Unit 3616

Examiner
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BJG